



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

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DECISION OF THE BOARD

Mailed and Filed: OCTOBER 19, 2022

IN THE MATTER OF:

Appeal Board No. 624610

PRESENT: GERALDINE A. REILLY, MEMBER

The Department of Labor issued the initial determination holding the claimant ineligible to receive benefits, effective February 21, 2022, on the basis that the claimant did not comply with reporting requirements. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There was an appearance by the claimant. By decision filed April 14, 2022 (), the Administrative Law Judge modified the initial determination, to be effective February 7, 2022 through February 10, 2022, and, as so modified, sustained the initial determination.

The Appeal Board, on its motion pursuant to Labor Law § 620 (3), has reopened and reconsidered the Judge's decision.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant filed a claim for benefits on November 4, 2011, made effective November 1, 2021. By letter dated February 7, 2022, the Department of Labor (DOL) informed the claimant that he reported a refusal of work for the week ending February 6, 2022 when certifying for benefits. The letter requested further information regarding this refusal and provided a questionnaire for the claimant to complete and return by mail within seven days.

The claimant had not received nor refused any offers of work but had inadvertently certified that he had. Believing that a response by email would reach the DOL more quickly, on February 11, 2022, the claimant responded to the request for information by sending a secure email to correct the error. In this email, the claimant reported that the certification was an error because he had not received any job offers and, therefore, had not refused any offers; he also supplied corrected certification responses for the week ending February 6, 2022. The claimant attempted to call the DOL to follow up on his response but was unable to get through to a representative.

Months later, the claimant spoke with a DOL claimant advocate and first learned that his ineligibility was based on his failure to mail in the questionnaire itself rather than his incorrect certification. As a result, the claimant mailed in the completed questionnaire on April 11, 2022 in which he again reported that he had not refused an offer of work; he marked the questions asking for details of the refusal as inapplicable.

OPINION: The credible evidence fails to establish that the claimant did not respond to the DOL's request for further information regarding an alleged refusal of employment for week ending February 6, 2022. The claimant credibly testified that he responded to the DOL's inquiry regarding the alleged refusal of work by email dated February 11, 2022. This testimony was corroborated by the email itself showing that the claimant reported to the DOL that the certification, reporting that he had refused an offer of work was made in error since he had neither been offered nor refused a job offer. It is significant that, although the claimant did not respond by mailing back the questionnaire itself as requested, his email response reporting that he had not refused an offer of employment rendered the questions seeking more information regarding an alleged refusal inapplicable. As such, we find that the claimant's email reporting that he had not refused an offer of employment constituted a complete response to the DOL's request for more information regarding the alleged refusal. Moreover, the evidence establishes that the claimant provided the additional information within the seven days requested in the DOL's letter. As such, the evidence fails to establish that the claimant failed to report as alleged. We, therefore, conclude that the claimant cannot be held ineligible for benefits on the basis that he failed to report as required.

DECISION: The decision of the Administrative Law Judge is reversed.

The initial determination, holding the claimant ineligible to receive benefits, effective February 21, 2022, on the basis that the claimant did not comply with reporting requirements, is overruled.

The claimant is allowed benefits with respect to the issues decided herein.

GERALDINE A. REILLY, MEMBER